THE
Dan Smoot Report

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DAN SMOOT

NIXON OUTJOHNSONS JOHNSON

The Civil Rights Act of 1964 *forbids racial discrimination* by federal contractors in their employment practices. In 1965, President Johnson issued Executive Order 11246, directing the Office of Federal Contract Compliance (in the Department of Labor) and the Equal Employment Opportunity Commission to oversee the employment practices of federal contractors and prevent them from practicing racial discrimination.(1)

In 1968, President Johnson's Labor Department promulgated a "Philadelphia plan," *requiring* federal contractors in the Philadelphia area to *practice racial discrimination favoring Negroes* in their employment practices. Business firms were ordered, under threat of losing federal contracts, to set racial quotas in hiring iron workers, plumbers, pipefitters, steamfitters, sheetmetal workers, electrical workers, roofers, waterproofers, and elevator construction workers. Minority group members had to be given specified percentages of all jobs in these nine high-wage, skilled trades.(1)

Johnson's Philadelphia plan was abandoned because (1) it violated federal law which prohibits any kind of racial discrimination — including racial quotas favoring Negroes — in the employment practices of federal contractors; and (2) because the U.S. Controller General said that forcing employers to hire minority workers after the employers had already bid on government contracts added a new cost factor not calculated in the original bid.(1)

In 1968, candidate Richard Nixon criticized Lyndon Johnson for going beyond the intent of (and thus violating) federal laws intended merely to guarantee *equal* opportunity and treatment of minority groups. But President Nixon has gone beyond President Johnson in going beyond federal laws in this field.

On July 18, 1969, the Nixon Labor Department's Office of Federal Contract Compliance reinstated Johnson's Philadelphia plan, making it more arbitrary and oppressive than it was under Johnson. The Nixon administration did not even consult the Controller General, who had ruled against the plan

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in 1968. Nixon bureaucrats say their authority does not derive from federal law, but from the Executive Order that Johnson issued in 1965.[1]

Johnson's Philadelphia plan provided for negotiations between employers and federal bureaucrats before the bureaucrats told the employers how many Negroes they must hire for jobs in skilled trades. Under Nixon's plan, a staff member of the Office of Federal Contract Compliance in Washington will go to Philadelphia, survey the labor market, and unilaterally establish a non-negotiable quota of minority workers that each federal contractor must hire for jobs in each of the nine specified skilled trades.[1,6]

Arthur Fletcher, Nixon's Assistant Secretary of Labor in charge of the Office of Federal Contract Compliance, says the Philadelphia plan is a model which will be extended, "in the immediate future," to force the hiring of Negroes in high-wage building trades throughout the United States — because, he said, "of the deplorably low rate of employment among minority groups" in these trades.[1,6]

Concerning Nixon's Philadelphia plan, *The Dallas Morning News* says editorially (July 21, 1969):

"The Labor Department calls the plan an 'economic emancipation proclamation.' It may not stop with federally related projects. It may try to enforce the quota system everywhere.

"Naturally, there's a specific federal law against the effort to quota-ize jobs. But the guideliners say job discrimination is wrong — so illegality apparently makes no difference."

Though thousands of highly-skilled Negroes are employed in the nine major trades of the construction industry, it is a fact that the *percentage* of Negroes employed in these high-wage trades is considerably below the percentage of Negroes in the total population. The primary reason for this is not white discrimination against Negroes, but the fact that fewer Negroes than whites have qualified themselves for jobs in the skilled trades.

There are employers who prefer white employees over Negro employees, just as there are employers who prefer Mexicans over whites, Negroes over Mexicans, Chinese over Italians, Italians over Irish, Jews over Catholics, Catholics over Protestants, and so on. But, for the most part, business firms (especially in the competitive building industry) cannot afford the luxury of catering to such private preferences of management. Companies, needing the best employees they can get, would not, if they could, erect artificial barriers against getting them. Moreover, most companies in the building industry have very limited prerogatives in selecting skilled workers. Federal laws and regulations have given unions a monopoly of the labor supply in the skilled trades in most areas.

Craft unions are accused of discriminating against Negroes. Doubtless, some of them are guilty — because white members do not want to work and compete with Negroes, or because union bosses consider Negroes unamenable to union disciplines and dues collecting, or for other reasons. In some unions which have a tight monopoly on the labor supply in a specialized, high-wage field, there is a self-serving clannishness that excludes from membership everyone (whites as well as Negroes) except friends and relatives of those who are already members.

Most unions, however, are so hungry for membership dues that they do not create unnecessary obstacles to impede their own recruiting activities. With regard to any unions that *do* abusively discriminate against Negroes, the remedy is not new federal laws, guidelines, or executive orders to punish management (which has no hand in the offense), but repeal of federal labor laws that have given unions the monopolistic power they abuse.

At any rate, unions do not have enough skilled Negro members to supply the quotas of Negroes which the Nixon administration says management

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must hire for high-wage jobs in the construction industry. If a company tries to fill its government-assigned racial quotas by hiring non-union Negroes, unions will probably cripple the company with strikes; and the government's labor board will find the company guilty of "unfair labor practices" under federal labor laws. Yet, if a company does not fill its government-assigned racial quotas, the Nixon administration will deny it federal contracts[6] — and, possibly, harass it with court injunctions and prosecutions.

What will happen? Unions will admit unskilled Negroes as craftsmen in skilled trades, and companies will hire them for work they are not qualified to do. The companies will keep a full complement of skilled employees to do the work that cannot be done by the unskilled personnel forced upon them by government. This means inflated labor costs, which means inflated prices for goods and services — at a time when inflation (rising costs and prices) threatens to wreck our economy.

Many members of Congress (including Senate minority leader Everett Dirksen) complain about bureaucratic harassment of business, in violation (or gross distortion) of the laws of Congress;[6] but Congress does nothing about it. Yet, there are many effective things that Congress *could* do.

Congress could impeach every civil officer of the United States who commits the misdemeanor[2] of violating a law of Congress under the pretext of administering the law. This is not a politically practical procedure, because there is no probability that such an impeachment would succeed in the present Congress; but if a few members of the House (which has the sole power to impeach)[3] formally submitted bills of impeachment, they would certainly focus nationwide attention on the abuses they complain of. This would have a wholesome, educational effect on the public, and might even discourage some of the executive branch's arrogant grabs for illegal power.

Congress could withhold all tax money from every executive department whose agents violate or distort laws of Congress.

Best of all, Congress could repeal all statutes which created federal programs that are not clearly authorized by a constitutional provision granting the federal government power to conduct such programs. That would eliminate a large percentage of the federal contracts which now give the federal bureaucracy pretext for harassing private business.

These last two suggested remedies are probably as politically impractical as the first (impeachment), because there is no probability that Congress will utilize them.

But if enough people cared enough about their country to demand such remedies, and implemented their demands by selecting and supporting political candidates irrevocably committed to such remedies — we could get a Congress that would abolish illegal government, restore our constitutional Republic, and thus secure the blessings of liberty to ourselves and our posterity.[4]

THE CHICKEN-PECKING BRIDGE AND THE SNAKE

The following is from a subscriber to this *Report*:

"Several months back, in an article about waste in the foreign aid program, you mentioned a bridge we built in the Dominican Republic, with lighting fixtures installed, only to find out there was no electricity there.[5]

"I was in Santo Domingo recently. A friend took me out about 30 miles on the Santiago highway to see the bridge. Guess what? After the flap was raised about the unlighted lights, they ran power lines out to the bridge.

"No one drives on the roads at night, because of the countless bands of communist-led bandits roaming the country. There are six communist parties in the Dominican Republic.

"The lights on our bridge are not useless, however. Some Dominicans have found that

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the lights draw beetles and other kinds of bugs at night; so, some of the more fearless ones bring their chickens out there at night to peck bugs off the bridge. The fattest chickens are from this particular part of the Dominican Republic.

"At a party one night, I criticized our foreign aid program, and was told I am a 'reactionary.' Maybe so, but I plan to tell anyone who will listen about our chicken-pecking bridge in the Dominican Republic.

"Our aid to the Dominican Republic includes a small army of U. S. employees down there to help the natives. On one farm I saw, U.S. agents are helping the Dominicans produce tobacco which is used as a cash export-crop. We are spending American dollars to teach them how to produce more tobacco, which they can sell in the United States. At the same time, many of our government agencies, such as the FCC, are trying to abolish cigarette advertising from all communications media in the United States. It seems to me we are feeding both ends of a snake.

"The Dominicans discourage U.S. business investments in their country. In fact, they are almost paranoid about this. They have been sold the liberal-communist pap about how American businessmen exploit and oppress the natives, and so on, and so on.

"But they still accept our money. In almost every occupation in the Dominican Republic, American tax dollars, supplied by our government, are somehow involved."

EDWARD KENNEDY

I have been asked what I think of Senator Edward Kennedy's conduct in the case involving the death of Miss Mary Jo Kopechne. Senator Kennedy himself has described his behavior as "indefensible," "irrational," "inexplicable," "inconsistent," and "inconclusive." I agree — and would add "cowardly," "dishonest," "illegal," and "uncivilized." Kennedy revealed that he is less than a man.

I have been asked whether I think Massachusetts authorities are being more lenient with Senator Kennedy than they would be with some other citizen. I think they are. John Farrar (head of the Edgartown, Massachusetts, fire department's rescue team) says Miss Kopechne might possibly have lived long enough in the submerged car to be rescued, if Kennedy had gone for help immediately. Farrar could qualify as an expert witness in such matters. Hence, I think Edward Kennedy should be indicted and tried for involuntary manslaughter.

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FOOTNOTES

(1) "New U.S. Job Plan For Negroes Set," *New York Times*, July 18, 1969, p. C10; "Comply or Else," *Barron's*, July 7, 1969

(2) Article 2, Section 4, Constitution of the United States

(3) Article 1, Section 2, Clause 5, Constitution of the United States

(4) Preamble, Constitution of the United States

(5) "Unclassified Waste," *Dan Smoot Report*, Apr. 21, 1969

(6) *Congressional Quarterly*, July 11, 1969, p. 1237

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